

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE ENROLLED ACT No. 335

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-3-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A person who rides, drives, or walks on or along the right-of-way or yard of a railroad company at a place other than a public crossing commits a Class B misdemeanor.

(b) "Right-of-way" means the track or roadbed owned or leased by a railroad which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(c) "Yard" means a system of parallel tracks, cross-overs, and switches where cars are switched and made up into trains, and where cars, locomotives, and other rolling stock are kept when not in use or awaiting repairs.

(d) This section does not apply to:

- (1) passengers on trains or employees of a railroad company while engaged in the performance of their duties;
- (2) picketing by railroad employees in the vicinity of entrances to railroad company property;
- (3) an authorized representative of the railroad employees;
- (4) a person going upon the right-of-way or into the yard to save

SEA 335



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human life or to protect property;

(5) a person being on the station grounds or in the depot of the railroad company as a passenger or for the purpose of transacting business;

(6) a person, or the person's family or employees going upon the right-of-way for the purpose of crossing from one (1) part to another part of a farm the person owns or leases, where the farm lies on both sides of the right-of-way;

(7) a person having written permission from the railroad company to go upon the right-of-way;

(8) representatives of the Indiana department of transportation;

(9) representatives of the ~~interstate commerce commission~~; or
federal Surface Transportation Board; or

(10) a registered land surveyor or a land surveyor's employees who are on the right-of-way or in the yard for the purpose of making land surveys.

SECTION 2. IC 35-42-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5.5. A person who recklessly, knowingly, or intentionally:**

(1) removes an appurtenance from a railroad signal system, resulting in damage or impairment of the operation of the railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad owned, leased, or operated by a railroad carrier without consent of the railroad carrier involved;

(2) tampers with or obstructs a switch, a frog, a rail, a roadbed, a crosstie, a viaduct, a bridge, a trestle, a culvert, an embankment, a structure, or an appliance pertaining to or connected with a railroad carrier without consent of the railroad carrier involved; or

(3) steals, removes, alters, or interferes with a journal bearing, a brass, a waste, a packing, a triple valve, a pressure cock, a brake, an air hose, or another part of the operating mechanism of a locomotive, an engine, a tender, a coach, a car, a caboose, or a motor car used or capable of being used by a railroad carrier in Indiana without consent of the railroad carrier;

commits railroad mischief, a Class D felony. However, the offense is a Class C felony if it results in serious bodily injury to another person and a Class B felony if it results in the death of another



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person.

SECTION 3. IC 35-43-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
 - (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
 - (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
 - (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;
- or
- (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; or

(6) knowingly or intentionally:

- (A) travels by train without lawful authority or the railroad carrier's consent; and**
- (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;**

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written; or
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

- (1) A passenger on a train.**
- (2) An employee of a railroad carrier while engaged in the performance of official duties.**

SEA 335



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(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

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